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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,720	03/18/2004	Sean Lukan	6579-0129-1	6993

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Richard R. Michaud  
Michaud- Duffy Group LLP  
306 Industrial Park Road  
Suite 206  
Middletown, CT 06457

EXAMINER

LANDRUM, EDWARD F

ART UNIT PAPER NUMBER

3724

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/803,720

Applicant(s)

LUKAN ET AL.

Examiner

Edward F. Landrum

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because the ratio stated is indefinite in terms of the actual size of the handle. Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to under 37 CFR 1.71 for the following:

In paragraph [0006], the phrase "the width to height ration being about 1.1 to about 1.4 along a length defined by the body portion." is not clear as to the actual size of handle. In paragraph [0007], the phrase "The largest width defined by the body portion is positioned at a location about 37% of along the length from the tip." is not clear as to the position of the handle's largest width. In Paragraph [0011], the clauses "The ratio of the width 'w' to the height 'h' is about 1.1 to about 1.4 along a length, indicated by label 'L1' defined by the body portion 12. The width 'w' varies along the length L1 with the ratio of the largest to the smallest width preferably being between 1.3 to about 1.5." is not clear as to the actual size of the handle. Paragraph [0012] is not clear for the same reasons listed for the phrase in paragraph [0007]. Paragraphs [0008], [00013], and [00014] are not clear because the size of the handle has not been clearly defined and therefore the placement of both the pinch point and center of balance are not clearly defined. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In paragraph [0006], the phrase "the width to height ration being about 1.1 to about 1.4 along a length defined by the body portion." is not clear as to the actual size of handle. In paragraph [0007], the clause "The largest width defined by the body portion is positioned at a location about 37% of along the length from the tip." is not clear as to the position of the handle's largest width. In Paragraph [0011], the clauses "The ratio of the width 'w' to the height 'h' is about 1.1 to about 1.4 along a length, indicated by label 'L1' defined by the body portion 12. The width 'w' varies along the length L1 with the ratio of the largest to the smallest width preferably being between 1.3 to about 1.5." is not clear as to the actual size of the handle. Paragraph [0012] is not clear for the same reasons listed for the phrase in paragraph [0007]. Paragraphs [0008], [0013], and [0014] are not clear because the size of the handle has not been clearly defined and therefore the placement of both the pinch point and center of balance are not clearly defined.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The independent claims 1, 7, and 13 all include indefinite terminology.

Regarding claim 1, the width to height ratio is not clearly defined because the ratio fails to limit the actual operable size of the handle.

Regarding claim 7, the position of the largest width is not clearly defined because the applicant fails to limit the operable size of the handle.

Regarding claim 13, the overall dimensions of the handle are not clearly defined and therefore the operable placement of the pinch point is not clearly defined.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dansreau et al (U.S Design Patent No. 445,958) .

Dansreau does not disclose the specific ratios claimed, however, to the degree that the purpose of the handle structure in Dansreau is to provide an ergonomic structure, to vary a particular length, width, and height along the handle to fit appropriately in a particular size of hand would have been an obvious matter of choice in size variation to obtain a desired level of comfort. It is to be noted that applicant has

not defined within the claims a particular size and shape of the handle, and a specific location defining the limits of length, width, and height. Keeping this in mind, applicant's claims provide wide variance that are rendered obvious by the prior art if not anticipated thereby in that applicant's claimed parameters are not very limiting.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wonderley (U.S Design Patent No. 476,772), Kruger et al (U.S Design Patent No. 250,664), Grange (U.S Design Patent No. 421,155), Stvartak et al (U.S Patent No. 6,601,272), Ribley (U.S Patent No. 2,012,637), and Bosy et al (U.S Patent No. 6,598,303) teach ergonomic handles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL  
9/28/2005



Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700